



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

APR 17 2013

CERTIFIED MAIL 7012 1010 0001 8097 0030
RETURN RECEIPT REQUESTED

Mr. James Balthrop
Attorney, City of Springfield
119 5th Avenue West
Springfield, Tennessee 37172

Re: Proposed Consent Agreement and Final Order
Docket No. CWA-04-2013-4508(b)
National Pollutant Discharge Elimination System Permit No. TN0024961
City of Springfield

Dear Mr. Balthrop:

Pursuant to the informal discussion held with the Springfield Water and Wastewater Department Director and the Attorney for the City of Springfield on February 11, 2013, enclosed is a proposed Consent Agreement and Final Order (CA/FO). Upon review, if you find this document accurately reflects the agreement, please sign and return it within 10 days of receipt to:

Ms. Mary Mattox
U.S. Environmental Protection Agency, Region 4
Municipal and Industrial Enforcement Section
Clean Water Enforcement Branch
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

After receiving the signed CA/FO, the U.S. Environmental Protection Agency, Region 4 must place it on public notice in accordance with 40 C.F.R. Part 22. The public notice will be on the EPA, Region 4 website at: <http://www.epa.gov/region4/water/wpeb>. The comment period will remain open for 30 days. This CA/FO may not be finalized by the EPA until 10 days after the closure of the comment period. Once the public comment period is exhausted and the CA/FO has been signed by the Water Protection Division Director, an executed copy will be sent to the Regional Judicial Officer. Upon approval by the Regional Judicial Officer, the CA/FO will be filed with the Regional Hearing Clerk, who will mail a copy to you. The CA/FO will become effective upon filing with the Regional Hearing Clerk.

Please note that a settlement does not relieve you of your obligation to comply with all applicable provisions of federal, state or local law, nor shall it be construed to be a ruling on or determination of, any issue related to any federal, state or local permit.

Should you have any questions or concerns regarding this matter, please contact Mr. Dennis J. Sayre at (404) 562-9756. Legal inquiries should be directed to Ms. Wilda Cobb, Assistant Regional Counsel at (404) 562-9530.

Sincerely,

A handwritten signature in black ink, appearing to read "Denisse D. Diaz", with a stylized flourish at the end.

Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosure

cc: Dr. Sandra Dudley, P.E.
Tennessee Department of Environment and Conservation

Mr. Roger Lemaster
Springfield Water and Wastewater Department

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	
)	CONSENT AGREEMENT AND
THE CITY OF SPRINGFIELD,)	FINAL ORDER
TENNESSEE)	
)	
RESPONDENT.)	DOCKET NO. CWA-04-2013-4508(b)
)	

CONSENT AGREEMENT

I. Statutory Authority

1. This is a civil penalty proceeding pursuant to Section 309(g)(2)(B) of the Clean Water Act ("CWA"), 33 U.S.C. § 1319(g)(2)(B), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, published at 64 Fed. Reg. 40176 (July 23, 1999) and codified at 40 Code of Federal Regulations ("C.F.R.") Part 22.

2. The authority to take action under Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), is vested in the Administrator of the United States Environmental Protection Agency ("EPA"). The Administrator has delegated this authority to the Regional Administrator, Region 4, who in turn has delegated this authority to the Director of the Water Protection Division ("Complainant").

II. Allegations

3. To accomplish the objective of the CWA (defined in Section 101(a) of the CWA, 33 U.S.C. § 1251(a), as to restore and maintain the chemical, physical and biological integrity of the nation's waters), Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants from a point source by any person into navigable waters except as in compliance with a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

4. At all times relevant to this action, the City of Springfield, Tennessee ("Respondent"), was a municipality existing under the laws of the State of Tennessee and, therefore, a "person" within the meaning of Section 502(5) of the CWA, 33 U.S.C. § 1362(5).

5. At all times relevant to this action, Respondent owned and/or operated a Publicly Owned Treatment Works ("POTW") including a wastewater treatment plant ("WWTP"), located at 530 Lawrence Lane, Springfield, Tennessee, and its associated wastewater collection and transmission system ("WCTS").

6. The Tennessee Department of Environment and Conservation ("TDEC") issued National Pollutant Discharge Elimination System ("NPDES") Permit No. TN0024961 (the "Permit") to Respondent for the POTW for the discharge of treated domestic and industrial sanitary wastewaters into navigable waters subject to specific terms and conditions. The POTW discharges "pollutants" from a "point source" into the Sulphur Fork Creek, a "navigable water" as defined at Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

7. The Permit became effective on May 1, 2010, and expires on December 31, 2014.

8. The Permit includes a requirement, at Section 2.1.4 of the Permit, that Respondent properly operate and maintain all facilities and systems (and related appurtenances) for collection and treatment.

9. The Permit also includes a requirement, at Section 2.3.3 of the Permit, that Respondent operate the WCTS so as to avoid overflows. Such section further provides that overflows are prohibited.

10. On August 29, 2011, the EPA sent an Information Request Letter, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, to Respondent requesting information related to sanitary sewer overflows ("SSOs") in order to evaluate the performance of the POTW and to assess Respondent's compliance with the Permit and the CWA.

11. On October 6, 2011, the EPA conducted a Compliance Evaluation Inspection (CEI) of the POTW to further evaluate Respondent's compliance with the Permit and the CWA.

12. Based on its review of information obtained from the Information Request and observations made during its inspection, the EPA found that Respondent had experienced numerous SSOs from the WCTS including SSOs from three unpermitted outfalls which Respondent had constructed and maintained as operational.

13. Respondent has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a), in that some of Respondent's SSOs include discharges of untreated wastewater containing pollutants to navigable waters at point source locations not authorized by an NPDES permit.

14. Respondent has violated Section 2.1.4 of the Permit by failing to properly operate and maintain its WCTS resulting in SSOs that include discharges of untreated wastewater containing pollutants to navigable waters at point source locations not authorized by an NPDES permit and overflows of raw sewage that did not reach navigable waters including building backups.

15. Respondent's SSOs are also a violation of Section 2.3.3 of the Permit which prohibits overflows from the WCTS.

III. Stipulations and Findings

16. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or

testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order ("CA/FO") will simultaneously commence and conclude this matter.

17. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out above and neither admits nor denies the factual allegations set out above.

18. Respondent hereby waives its right to contest the allegations set out above and its right to appeal the Final Order accompanying this Consent Agreement.

19. By signing this CA/FO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each such submission, response and statement. Respondent realizes that there are significant penalties for submitting false or misleading information, including the possibility of fines and/or imprisonment for knowing submission of such information.

20. EPA reserves the right to assess and collect any and all civil penalties for any violation described herein to the extent that any information or certification provided by Respondent was materially false or inaccurate at the time such information or certification was provided to EPA.

21. Complainant and Respondent agree to settle this matter by their execution of this CA/FO. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of the CWA.

IV. Payment

22. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. Part 19, and considering the nature of the violations and other relevant factors, the EPA has determined that One Hundred Twenty Two Thousand Five Hundred Dollars (\$122,500) is an appropriate civil penalty to settle this action. Respondent consents to the assessment of and agrees to pay the civil penalty and consents to the other conditions set forth in this CA/FO.

23. Respondent shall submit payment of the penalty specified in the preceding paragraph within thirty (30) days of the effective date of this CA/FO via a cashier's or certified check, payable to the order of "Treasurer, United States of America." The check shall reference on its face the name of Respondent and the Docket Number of this CA/FO. Such payment shall be tendered to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

24. At the time of payment, Respondent shall send a separate copy of the check, and a written statement that payment has been made in accordance with this CA/FO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

and

Mary Mattox
U.S. Environmental Protection Agency, Region 4
Water Protection Division
Clean Water Enforcement Branch
Municipal and Industrial Enforcement Section
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

25. The penalty amount specified in Paragraph 13 above shall represent civil penalties assessed by the EPA and shall not be deductible for purposes of Federal taxes.

26. Pursuant to Section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(9), failure by Respondent to pay the penalty assessed by the CA/FO in full by its due date may subject Respondent to a civil action to collect the assessed penalty plus interest (at currently prevailing rates from the effective date of this CA/FO), attorney's fees, costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to twenty percent (20%) of the aggregate amount of such penalty and nonpayment penalty which are unpaid as of the beginning of such quarter. In any such collection action, the validity, amount and appropriateness of the penalty and of this CA/FO shall not be subject to review.

V. General Provisions

27. This CA/FO shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state, or local law, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit. Other than as expressed herein, compliance with this CA/FO shall not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by EPA.

28. Nothing in this CA/FO shall be construed as prohibiting, altering, or in any way limiting the ability of the United States to seek any other remedies or sanctions available by virtue of Respondent's violation of this CA/FO or of the statutes and regulations upon which this CA/FO is based, or for Respondent's violation of any federal or state statute, regulation or permit.

29. Except as otherwise set forth herein, this CA/FO constitutes a settlement by Complainant and Respondent of all claims for civil penalties pursuant to the CWA with respect to only those violations alleged in this CA/FO. Except as otherwise set forth herein, compliance

with this CA/FO shall resolve the allegations of violations contained herein. Nothing in this CA/FO is intended to nor shall be construed to operate in any way to resolve any criminal liability of Respondent, or other liability resulting from violations that were not alleged in this CA/FO. Other than as expressed herein, Complainant does not waive any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement.

30. Each undersigned representative of the parties to this CA/FO certifies that he or she is fully authorized to enter into the terms and conditions of this CA/FO and to execute and legally bind that party to it.

31. This CA/FO applies to and is binding upon Respondent and its officers, directors, employees, agents, successors and assigns.

32. Any change in the legal status of Respondent, including, but not limited to, any transfer of assets of real or personal property, shall not alter Respondent's responsibilities under this CA/FO.

33. Each party shall bear its own costs and attorneys fees in connection with the action resolved by this CA/FO.

34. In accordance with 40 C.F.R. § 22.5, the individuals below are authorized to receive service relating to this proceeding.

For Complainant:

Wilda Cobb
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9530

For Respondent:

James Balthrop
Attorney, City of Springfield
119 5th Avenue W.
Springfield, Tennessee 37172
(615) 384-9568

35. The parties acknowledge and agree that this CA/FO is subject to the requirements of 40 C.F.R. § 22.45(c)(4), which provides a right to petition to set aside a consent agreement and proposed final order based on comments received during the public comment period.

36. Pursuant to Section 309(g) of the CWA, 33 U.S.C. § 1319(g), and 40 C.F.R. § 22.38(b), Complainant represents that the State of Tennessee was provided a prior opportunity to consult with Complainant regarding this matter.

37. Effective upon signature of this CA/FO by Respondent, Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from Respondent the payment required by this CA/FO shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the EPA related to the matters addressed in this CA/FO and that, in any action brought by the EPA related to the matters addressed, Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondent that it will not make this CA/FO effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by EPA.

VII. Effective Date

38. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

AGREED AND CONSENTED TO:

For RESPONDENT, CITY OF SPRINGFIELD, TENNESSEE:

Billy P. Cereal
Mayor
City of Springfield

Date: _____

For COMPLAINANT, U.S. ENVIRONMENTAL PROTECTION AGENCY:

James D. Giattina
Director
Water Protection Division

Date: _____

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

**THE CITY OF SPRINGFIELD,
TENNESSEE,**

RESPONDENT.

)
) **CONSENT AGREEMENT AND**
) **FINAL ORDER**
)
)
) **DOCKET NO. CWA-04-2013-4508(b)**
)

FINAL ORDER

In accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits*, 40 C.F.R. Part 22, and authorities delegated to me, the foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Pursuant to Section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), Respondent is hereby ordered to comply with the terms of the foregoing Consent Agreement.

U.S. ENVIRONMENTAL PROTECTION AGENCY

Date: _____

Gwendolyn Keyes Fleming
Regional Administrator

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the attached **CONSENT AGREEMENT AND FINAL ORDER** in the matter of the City of Springfield, Tennessee, Docket No. CWA-04-2013-4508(b) (filed with the Regional Hearing Clerk on _____, was served on _____, in the manner specified to each of the persons listed below.

By hand-delivery:

Wilda Cobb
Associate Regional Counsel
Office of Environmental Accountability
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9530

By certified mail,
return receipt requested:

Mr. James Balthrop
Attorney, City of Springfield
119 5th Avenue W.
Springfield, Tennessee 37172
(615) 384-9568

Dr. Sandra Dudley, Ph.D., P.E.
Director, Water Resources Division
Tennessee Department of Environment and Conservation
6th Floor, L & C Annex
401 Church Street, Nashville, Tennessee 37243-1534
(615) 532-8796

Ms. Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511

